# MONTANA LEGISLATIVE HISTORY

Chapter 487 19 75

Bill H 8 S _____ Original bill & history ✓ C

| H. Committee on Judiciary | | | S. Committee on Judiciary | | |
|---|---|---|---|---|---|
| Hearing Date(s) | 1-10 | C | Hearing Date(s) | 3-15 | C |
| | 1-29 | C | | 3-17 | C |
| | 2-21 | C | | | C |
| | | C | | | C |
| Date Out | | C | | | |

---

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 8

INTRODUCED BY STOLTZ, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE 'MONTANA CODE OF FAIR PRACTICES' RELATING TO THE NONPARTICIPATION OF THE GOVERNMENT OF THE STATE OF MONTANA IN DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGIOUS CREED, SEX, AGE, NATIONAL ORIGIN, OR ANCESTRY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Employment of state and local government personnel without regard for race, color, religious creed, sex, age, national origin, or ancestry. (1) State and local government officials and supervisory personnel shall recruit, appoint, assign, train, evaluate, and promote personnel on the basis of merit and qualifications, without regard to race, color, religious creed, sex, age, national origin, or ancestry.

(2) All state and local governmental agencies shall:

(a) promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state government;

(b) regularly review their personnel practices to assure compliance; and

(c) conduct continuing orientation and training programs with emphasis on human relations and fair employment practices.

(3) The department of administration shall insure that the entire examination process, including qualifications appraisal, is free from bias.

(4) Appointing authorities shall exercise care to insure utilization of minority group persons.

Section 2. Nonparticipation in discriminatory practices. All services of every state and local governmental agency shall be performed without discrimination based upon race, color, religious creed, sex, age, national origin, or ancestry. No state or local facility shall be used in the furtherance of any discriminatory practice, nor shall any state or local agency become a party to any agreement, arrangement, or plan which has the effect of sanctioning discriminatory practices. Each state and local agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of this act and shall initiate comprehensive programs to remedy any defect found to exist.

Section 3. Public contracts. Every state or local contract or subcontract for construction of public buildings or for other public work or for goods and services shall contain a provision that there shall be no discrimination on the basis of race, color, religious creed, sex, age,

national origin, or ancestry by the persons performing the contract.

Section 4. Employment requests--cooperation with commission for human rights programs--enforcement of the policy of the act. (1) All state and local governmental agencies, including educational institutions, which provide employment referrals or placement services to public or private employers, shall accept job orders on a fair practice basis. Any job request indicating an intention to exclude any person because of race, color, religious creed, sex, age, national origin, or ancestry shall be rejected.

(2) All state and local governmental agencies shall cooperate in programs developed by the commission for human rights initiated for the purpose of broadening the base of job recruitment and shall further cooperate with all employers and unions providing such programs.

(3) The department of labor shall cooperate with the commission for human rights in encouraging and enforcing employers and labor unions to comply with the policy of this act and promote equal employment opportunities.

Section 5. Licensing. No state or local department, board, or agency shall grant, deny, or revoke the license or charter of any person on the grounds of race, color, religious creed, sex, age, national origin, or ancestry. Each state and local agency shall take such appropriate





action in the exercise of its licensing or regulatory power as will assure equal treatment of all persons and eliminate discrimination and enforce compliance with the policy of this act.

Section 6. Public accommodations. No state or local department, board, or agency shall permit any violation of the public accommodations provisions of section 64-306, R.C.M. 1947.

Section 7. State programs. All education, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state or local agencies, or in which state or local agencies participate, shall be open to all qualified persons, without regard to race, color, religious creed, sex, age, national origin, or ancestry. Such programs shall be conducted to encourage the fullest development of the interests, aptitudes, skills, and capacities of all students and trainees, with special attention to the problems of culturally deprived, educationally handicapped, or economically disadvantaged persons. Expansion of training opportunities under these programs shall be encouraged to involve larger numbers of participants from those segments of the labor force where the need for upgrading levels of skill is greatest.

Section 8. Distribution of funds, benefits, loans, and financial assistance. Race, color, religious creed, sex,

age, national origin, or ancestry, shall not be considered as limiting factors in state or locally administered programs involving the distribution of funds to qualify applicants for benefits authorized by law; nor shall state agencies provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

Section 9. Cooperation with the commission for human rights. All state and local agencies shall cooperate with the commission for human rights in the commission's enforcement and educational programs. They shall comply with the commission's request for information concerning practices inconsistent with the state policy against discrimination and shall consider its recommendations for effectuating and implementing that policy. The commission for human rights shall continue to augment its enforcement and education programs which seek to eliminate all discrimination.

Section 10. Annual reports. All departments, agencies, commissions, and other bodies of the state government shall include in their annual reports to the governor, activities undertaken in the past year to effectuate this act. Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as





specifically requested by the governor.

Section 11. Local governmental units. Local governmental units affected by this act include all political subdivisions of the state including school districts.

Section 12. Age distinctions. Nothing in this act shall prohibit any public or private employer (1) from enforcing a differentiation based on age where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; or (2) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual; or (3) from discharging or otherwise disciplining an individual for good cause.

Section 13. Judicial review. (1) Any person claiming to be aggrieved by a violation of any provision of this act may petition the district court in the district where the complainant resides or where the alleged violation occurred for appropriate relief, and the court may grant such relief, by injunction or otherwise, as it considers just and suitable.



HB 8

(2) Actions under this section are original actions.

(3) Class actions pursuant to the Montana Rules of Civil Procedure are maintainable under this act.

-End-

JUDICIARY COMMITTEE

January 10, 1975

The second meeting of the House Judiciary Committee of the 44th Legislative Session was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Friday, January 10, 1975 at 9:00 AM. Representative Huennekens, Chairman, presided. All members were present.

Bills scheduled for hearing were House Bills Nos. 8 and 19 and were taken in this order.

HOUSE BILL NO. 8 Representative Gail Stoltz, District #14 is chief sponsor of this bill better known as the "Montana Code of Fair Practices" relating to the nonparticipation of the State Government in discrimination. She explained that the present law excepts employers from age qualifications.

Proponent James Zion, a member of the legislative committee of the Montana Civil Liberties Union stated there are some very favorable precedents for the code before committee now. He stated in the '50's and '60's it was very difficult getting this type of legislation passed. He helped draft executive orders forbidding discrimination in any form. The thrust of the bill is that no executive agency should take part in any way in discrimination practices.

Proponent Rosemary Zion who served as a consultant to the committee which drafted this bill stated that the critical thing is that the state and local governments have a great impact on private employment area. The bill prevents them from using this impact to foster or create discriminatory practices.

Proponent Mary Beth Linder, representing the Montana Women's Political Caucus and AAUW stated these women all support this piece of legislation. (See prepared statement).

Tom Winsor, representing the Montana Chamber of Commerce stated there was a conflict with Article II, Section 4 of the 1972 Constitution. If this conflict were removed from the bill he would remove his opposition. Barry L. Hjoyt, representing the Commissioner of Higher Education questioned why not add some administrative machinery to this bill. No private right of action is set forth in the federal statutes.

Ms. Zion, in closing on behalf of Representative Stoltz stated that in this bill they clearly wanted to make sure that protection would be available as a form of choice to each citizen. Hearing was then closed.

Representative Kimble questioned why "affirmative action plan" was not included in this bill. Representative Moore stated that to require every agency and every operation unit to prepare this report is tying up it's resources and why not have

a single body do this for all agencies. Ms. Zion stated she feels a directive is very simple if agency is already balanced, also there is no one group in the state which has expertise on all state agencies.

Following additional questions and discussion, Representative Meloy requested a subcommittee to study this bill. Representative Scully stated this bill really bothers him. Representative Baeth questioned why this bill includes school districts to which Ms. Zion replied they were inserted to make sure school districts were included under local government. Representative Day pointed out that there may be only one employee in some cases and questioned filing an annual report in these cases.

Hearing was then closed.

HOUSE BILL NO. 19 Representative Dorothy Bradley, District #77, chief sponsor of this bill providing that no juror shall serve more than three months in any term except in certain instances stated that since she has had time to study the provisions of this bill she is not sure it should be passed. She has since found that at least in some instances a jury term is now limited to four months and feels the bill changes the present system very little. She would like to see judges and lawyers get together in the next year or two and work on this.

No other proponents. No opponents. Following very brief questioning by committee members the hearing was closed.

EXECUTIVE SESSION

HOUSE BILL NO. 8 Chairman Huennekens appointed a subcommittee with Representative Kimble as chairman and Representatives Lester and Hager as members. Representative Anderson stated he feels there are two sides to this bill, the employee and the employer and quoted under Section 7 "to develop these people to their fullest capacity". Representative Seifert stated he wants to know the outcome of the subcommittee report.

HOUSE BILL NO. 19 Representative Baeth moved DO NOT PASS. Motion seconded by Representative Moore and carried unanimously.

Motion to adjourn made and carried. Meeting adjoured.

Herb Huennekens
HERB HUENNEKENS, CHAIRMAN

HH:pb

WITNESS STATEMENT

Name Rosemary Robinson Date 1/10/25

Address RR 1 Box, Cooperville Support ? ✓

Representing Self Oppose ?

Which Bill ? HB 56 Amend ?

Comments:

Yay bill!

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Gail M. Stahl Date 1-10-75

Address District 14 2 Valier Mt. 59486 Support ? V

Representing _____ Oppose ? _____

Which Bill ? HB8 Amend ? _____

Comments:

Chief sponsor of HB8
from interim study group on
equality of sexes

Please leave prepared statement with the committee secretary.

**WITNESS STATEMENT**

Name Patricia Blau Reuss Date Jan. 10

Address 929 N. Jackson Support ? V

Representing Helena Women's Political Caucus Oppose ? _____

Which Bill ? HB 8 Amend ? _____

Comments:

We support this bill, as long as affirmative action can still be pursued under this code.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Barry L. Hoke Date 1/10/75

Address 1231 11th Ave. Support ?

Representing Comm. of Higher Ed. Oppose ?

Which Bill ? HB 8 Amend ? X

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Tom Kinsora Date 1-10-75

Address 110 Neill Ave Support ?

Representing Montana Chamber of Commerce Oppose ? X

Which Bill ? HB 8 Amend ?

Comments:

Conflict with Art II Sec 4 of the 1972 Constitution. ~~If~~ Conflict removed from HB 8 — opposition removed.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name JAMES W. ZION Date 1/10/75

Address RURAL RT. 1 SOUTH, CASCADE Support ? V

Representing MONTANA CIVIL LIBERTIES UNION Oppose ? _____

Which Bill ? CODE OF FAIR PRACTICES, HB8 Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Mary Beth Linder Date 1-10-75

Address 918 North Benton Support ? ✓

Representing Montana Women's Political Caucus + AAUW Oppose ? _____

Which Bill ? HB 8 Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

January 10, 1975

Good Morning Ladies and gentlemen. My name is Mary Beth Linder and I am here today representing the Helena Women's Political Caucus. The Women's Political Caucus is a relatively new women's group in Montana. Our major emphasis, as our name implies, is geared toward examining women's issues, legislation, programs and concerns within state government from a non-partisan viewpoint; but unified in our concern for equitable legislation and treatment for the women of Montana.

The Caucus would like, at this time, to firmly stand in support of House Bill 8, The Code of Fair Practices.

We feel that this piece of legislation is a strong cornerstone for the State of Montana; and establishes a basic policy, commitment and theme by state government of non-participation in discriminatory practices of any kind because of race, color, creed,sex,age,national origin or ancestry.

More and more women are joining the work force daily. In Montana, 38% of Montana's women, 18-60 years old, are presently employed. The average woman today, despite a break when her children are young, has a work life expectancy of 25 years. Jobs that were agreeable for short-term employment several years ago are no longer so attractive to women today. Work is becoming more and more interesting and challenging to women and we are interested in upward mobility and career ladders. Nevertheless, with all of this interest and increased participation, there is economic discrimination against women today and it is a serious problem. There is still segregation, earning differentials and a higher unemployment rate for women.

In theory, some might say that our present law of non-discrimination is adequate. It states the familiar phrase, "there shall be no discrimination because of race, color, creed, sex, etc." But clearly, House Bill 3 commits the state in the specific areas of employment, public contracts, public accomodations, and state programs to a policy of non-discrimination.

This is what the Women's Political Caucus and the women of Montana are concerned with and support ---a strong mandate on the part of State government insuring the rights of all Montana citizens--male and female, Black, Indian, white or whatever.

Thank you and good morning.

JUDICIARY COMMITTEE

January 29, 1975

EXECUTIVE SESSION

The fifteenth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Wednesday, January 29, 1974 at 3:15 PM on adjournment of the House. Representative Herb Huennekens, Chairman, presided. All members were present except Representative Meloy, absent, excused.

HOUSE BILL NO. 8 Representative Gary Kimble was chairman of subcommittee to study this bill. He stated that he and Representative Lester had been able to get together but that Representative Hager had not been able to meet with them and thought that Mr. Hager had some changes to make. Also, Representative Meloy had an additional amendment he would like in bill.

Representative Kimble stated that they wished to amend this bill on page 1, line 20 after "directives" by inserting "of affirmative action". He explained that the federal process for eliminating discrimination or non-participation relate to affirmative action which means to review employment levels as to sex, race and so forth, then decide usual levels and then begin plugging holes.

Representative Kimble stated they wished to amend on page 1, line 13 after the word "ancestry" by adding "political ideas and physical and mental handicaps". Also add this same amendment to page 3, line 24 after the word "ancester", also on page 3, lines 1 and 2 and page 2, lines 11 and 12. Also on page 4, line 14, page 5, line 1 and the title. Representative Kimble stated he would like a discussion as to whether physical handicaps would include nervous system diseases. Representative Scully stated he would like to see the terminology "mental or physical handicaps" used. Representative Kimble stated this was fine with him. Representative Kimble stated you can't negate other qualificatons of job under affirmative action in order to meet just one qualification. Representative Scully stated he had trouble with subsection (a), section (1) and also subsection (c), that when you are talking about drawing that line you never can find the spot.

Chairman Huennekens stated he would defer action on this bill until Representative Meloy could be present.

HOUSE BILL NO. 134 Representative Kimble stated he was concerned there might be "presumption created" and he doesn't like presumptions in criminal matters. Representative Moore stated he had a basic concern for this but thinks that if a person won't take the test he should know there is something on the other side.

found in marijuana and never in any other plant. It can be synthesized. He feels the simple solution is you have to include the problem of the seeds which do contain THC.

No further proponents. No opponents. No closing.

Chairman Huennekens questioned if in the other species of canabis, is the amount of THC sufficient to produce hallucinogenic reactions to which he was told there are variations in hemp, it would be difficult to identify a small quantity.

Representative Meloy stated that Mr. Honzel indicated mature stocks of plants don't contain THC. According to Mel McCroff, this is correct, growing green stems contain THC. Representative Yardley questioned if we are amending the controlled substance act and was told yes, that's true.

A federal court case ruled that the seeds are viable if over 1% germinates. To prove if seeds are capable of germinating you put them in a moist vial and see if they germinate.

Representative Moore stated that the criminal substance act includes marijuana as a dangerous drug.

Hearing was then closed on HB 55?

EXECUTIVE SESSION

HOUSE BILL NO. 8 Representative Moore moved the amendments presented by the subcommittee which included Representative Kimble's amendments and which every committee member had a copy of. He also moved an additional amendment to line 13 on page 4 by striking "qualified" before the word "persons". Motion to amend carried for the first page of amendments plus the one additional amendment.

Representative Yardley moved the second set of amendments. Motion seconded by Representative Moore and carried.

Representative Yardley moved DO PASS AS AMENDED. Motion carried with Representative Seifert voting no.

HOUSE BILL NO. 27 Discussion of changing the limits in section 7 on page 6 as requested by a witness was done. Representative Meloy stated he thinks these are good limits, so does Representative Moore. Representative Day stated that part of the complaint on the set limits is in the price of insurance. Representative Moore stated this bill alleviates no-fault.

Representative Lester suggested amending pages 7 and 8, subsections (5) and (6) - the insurance people thought this was already covered under the law. Representative McKittrick feels this is

# STANDING COMMITTEE REPORT

February 21, 19 75

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 8

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE 'MONTANA CODE OF FAIR PRACTICES' RELATING TO THE NONPARTICIPATION OF THE GOVERNMENT OF THE STATE OF MONTANA IN DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGIOUS CREED, SEX, AGE, NATIONAL ORIGIN, OR ANCESTRY."

Respectfully report as follows: That HOUSE Bill No. 8

Be amended in the introduced bill as follows:

1. Amend title, page 1, line 8.
   Following: "AGE,"
   Insert: "MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP,"

2. Amend page 1, line 10.
   Following: The enacting clause.
   Insert: A new section to read as follows:
   "Section 1. Definitions. As used in this act: "state and local governmental agencies" means all branches, departments, offices, boards, bureaus, commissions, agencies, university units, colleges, or any other instrumentality of state government; and counties, cities, towns, school districts or any other instrumentality of local government."
   Renumber: Subsequent sections.

3. Amend page 1, lines 13 and 17
   page 2, lines 12 and 25
   page 3, lines 11 and 24
   page 4, line 14
   page 5, line 1
   Following: "age,"
   Insert: "marital status, physical or mental handicap,"

HOUSE OF REPRESENTATIVES February 21, 1975

COMMITTEE ON JUDICIARY AMENDMENTS TO HOUSE BILL NO. 8

4. Amend page 2, section 3, line 24.
Following: "that"
Insert: "all hiring shall be on the basis of merit and qualifications and a provision that"

5. Amend page 4, section 7, line 13.
Following: "all"
Strike: "qualified"

6. Amend page 4, section 7, line 13.
Following: "persons,"
Insert: "who shall be accepted on the basis of merit and qualifications"

7. Amend page 5, section 10, line 21.
Following: "government"
Insert: "which report to the governor"

8. Amend page 6, section 12, line 6.
Following: "Section 12."
Strike: "Age"
Insert: "Permitted"

9. Amend page 6, section 12, line 8.
Following: "based on age"
Strike: "where age is"
Insert: "or physical or mental handicap when based on"

10. Amend page 6, section 13, line 19.
Following: "Section 13."
Strike: "Judicial review"
Insert: "Remedies"

11. Amend page 6, section 13, line 21.
Following: "may"
Insert: "file a complaint with the commission for human rights or may"

12. Amend page 6, section 13, line 25.
Following: "suitable."
Insert: "Commencement of the administrative remedy shall not preclude the judicial remedy."

13. Amend page 7, section 13, lines 2 and 3.
Strike: Subsection (3) in its entirety.

(Continued on page 3)

HOUSE OF REPRESENTATIVES February 21, 1975

COMMITTEE ON JUDICIARY AMENDMENTS TO HOUSE BILL NO. 8

14. Amend page 7, following line 3.
Insert: "Section 14. Quotas not required. Nothing in this act shall be construed as requiring the institution of a system of quotas for representation of any sex, age, religious, racial, ethnic or other group affected by this act."

AS SO AMENDED

DO PASS

HERB HUENNEKENS, CHAIRMAN

HH:pb

HOUSE BILL NO. 8

INTRODUCED BY STOLTZ, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE 'MONTANA CODE OF FAIR PRACTICES' RELATING TO THE NONPARTICIPATION OF THE GOVERNMENT OF THE STATE OF MONTANA IN DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGIOUS CREED, SEX, AGE, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, NATIONAL ORIGIN, OR ANCESTRY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. DEFINITIONS. AS USED IN THIS ACT: "STATE AND LOCAL GOVERNMENTAL AGENCIES" MEANS ALL BRANCHES, DEPARTMENTS, OFFICES, BOARDS, BUREAUS, COMMISSIONS, AGENCIES, UNIVERSITY UNITS, COLLEGES, OR ANY OTHER INSTRUMENTALITY OF STATE GOVERNMENT; AND COUNTIES, CITIES, TOWNS, SCHOOL DISTRICTS OR ANY OTHER INSTRUMENTALITY OF LOCAL GOVERNMENT.

Section 2. Employment of state and local government personnel without regard for race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. (1) State and local government officials and supervisory personnel shall recruit, appoint, assign, train, evaluate, and promote personnel on the basis of merit and qualifications, without regard to race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry.

(2) All state and local governmental agencies shall:

(a) promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state government;

(b) regularly review their personnel practices to assure compliance; and

(c) conduct continuing orientation and training programs with emphasis on human relations and fair employment practices.

(3) The department of administration shall insure that the entire examination process, including qualifications appraisal, is free from bias.

(4) Appointing authorities shall exercise care to insure utilization of minority group persons.

Section 3. Nonparticipation in discriminatory practices. All services of every state and local governmental agency shall be performed without discrimination based upon race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. No state or local facility shall be used in the furtherance of any discriminatory practice, nor shall any state or local agency become a party to any

THIRD READING

agreement, arrangement, or plan which has the effect of sanctioning discriminatory practices. Each state and local agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of this act and shall initiate comprehensive programs to remedy any defect found to exist.

Section 4. Public contracts. Every state or local contract or subcontract for construction of public buildings or for other public work or for goods and services shall contain a provision that ALL HIRING SHALL BE ON THE BASIS OF MERIT AND QUALIFICATIONS AND A PROVISION THAT there shall be no discrimination on the basis of race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry by the persons performing the contract.

Section 5. Employment requests--cooperation with commission for human rights programs--enforcement of the policy of the act. (1) All state and local governmental agencies, including educational institutions, which provide employment referrals or placement services to public or private employers, shall accept job orders on a fair practice basis. Any job request indicating an intention to exclude any person because of race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry shall be rejected.





(2) All state and local governmental agencies shall cooperate in programs developed by the commission for human rights initiated for the purpose of broadening the base of job recruitment and shall further cooperate with all employers and unions providing such programs.

(3) The department of labor shall cooperate with the commission for human rights in encouraging and enforcing employers and labor unions to comply with the policy of this act and promote equal employment opportunities.

Section 6. Licensing. No state or local department, board, or agency shall grant, deny, or revoke the license or charter of any person on the grounds of race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. Each state and local agency shall take such appropriate action in the exercise of its licensing or regulatory power as will assure equal treatment of all persons and eliminate discrimination and enforce compliance with the policy of this act.

Section 7. Public accommodations. No state or local department, board, or agency shall permit any violation of the public accommodations provisions of section 64-306, R.C.M. 1947.

Section 8. State programs. All education, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state or local agencies, or

in which state or local agencies participate, shall be open to all ~~qualified~~ persons, WHO SHALL BE ACCEPTED ON THE BASIS OF MERIT AND QUALIFICATIONS without regard to race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. Such programs shall be conducted to encourage the fullest development of the interests, aptitudes, skills, and capacities of all students and trainees, with special attention to the problems of culturally deprived, educationally handicapped, or economically disadvantaged persons. Expansion of training opportunities under these programs shall be encouraged to involve larger numbers of participants from those segments of the labor force where the need for upgrading levels of skill is greatest.

Section 9. Distribution of funds, benefits, loans, and financial assistance. Race, color, religious creed, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry shall not be considered as limiting factors in state or locally administered programs involving the distribution of funds to qualify applicants for benefits authorized by law; nor shall state agencies provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

Section 10. Cooperation with the commission for human





rights. All state and local agencies shall cooperate with the commission for human rights in the commission's enforcement and educational programs. They shall comply with the commission's request for information concerning practices inconsistent with the state policy against discrimination and shall consider its recommendations for effectuating and implementing that policy. The commission for human rights shall continue to augment its enforcement and education programs which seek to eliminate all discrimination.

Section 11. Annual reports. All departments, agencies, commissions, and other bodies of the state government WHICH REPORT TO THE GOVERNOR shall include in their annual reports to the governor, activities undertaken in the past year to effectuate this act. Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as specifically requested by the governor.

Section 12. Local governmental units. Local governmental units affected by this act include all political subdivisions of the state including school districts.

Section 13. ~~Age~~ PERMITTED distinctions. Nothing in this act shall prohibit any public or private employer (1) from enforcing a differentiation based on age ~~where--age--is~~

OR PHYSICAL OR MENTAL HANDICAP WHEN BASED ON a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; or (2) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual; or (3) from discharging or otherwise disciplining an individual for good cause.

Section 14. ~~Judicial review~~ REMEDIES. (1) Any person claiming to be aggrieved by a violation of any provision of this act may FILE A COMPLAINT WITH THE COMMISSION FOR HUMAN RIGHTS OR MAY petition the district court in the district where the complainant resides or where the alleged violation occurred for appropriate relief, and the court may grant such relief, by injunction or otherwise, as it considers just and suitable. COMMENCEMENT OF THE ADMINISTRATIVE REMEDY SHALL NOT PRECLUDE THE JUDICIAL REMEDY.

(2) Actions under this section are original actions.

~~(3)--Class actions pursuant to the Montana Rules of Civil Procedure are maintainable under this act.~~

SECTION 15. QUOTAS NOT REQUIRED. NOTHING IN THIS ACT SHALL BE CONSTRUED AS REQUIRING THE INSTITUTION OF A SYSTEM





OF QUOTAS FOR REPRESENTATION OF ANY SEX, AGE, RELIGIOUS, RACIAL, ETHNIC OR OTHER GROUP AFFECTED BY THIS ACT.

-End-

MINUTES OF THE MEETING
SENATE JUDICIARY COMMITTEE
March 15, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:35 A.M. Senator Drake was absent. All other committee members were present.

The following bills were heard:

| | |
|---|---|
| HB 8 | HB 560 |
| HB 10 | HB 640 |
| HB 395 | HJR 35 |

HB 8 -- HB 8, sponsored by Representative Gail Stoltz of District 14, was heard first. She stated that the purpose of the bill, entitled the Montana Code of Fair Practices, was to eliminate discrimination by the State of Montana, on the basis of race, color, creed, sex, age, marital status, physical or mental handicap, national origin or ancestry. The bill provides for complaints to be handled by the Human Rights Commission, and the House inserted an amendment prohibiting the requirement that quotas be established for representation of any group in state government.

Ms. Jan Gerke, representing Women's Lobby, Inc., stated that the bill would require that more than just lip service would be paid to minority representation in government and added her support.

Ms. Margaret Davis, representing the Montana League of Women Voters, spoke in support of the bill, particularly the provisions concerning marital status and the mentally handicapped.

There were no further proponents and no opponents to the bill.

HB 10 -- HB 10, sponsored by Representative Dan Yardley of District 74, was heard next. Rep. Yardley stated that the bill, entitled the Uniform Parentage Act, was the product of an interim study, that the bill was designed to define and protect the parent-child relationship and that the bill provided for confidentiality in litigation concerning custody or other matters relating to the parent-child relationship. He added that section 25 of the bill conflicts with the provisions of HB 275 and is better than HB 275.

Pete Serdot of the Dept. of Social & Rehabilitation Services stated that he had been working in the adoption area for 10 years with the department and that the bill protects the rights of fathers, protects the rights of adoptive parents and provides for the best interests of children.

Tom Mahan, Attorney for the Dept. of Social & Rehabilitation Services, stated that he had been in court frequently on

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ - 44th ~~43rd~~ LEGISLATIVE SESSION 1975 Date 3/19/75

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Thomas E. Towe | | | |
| Joe R. Roberts | X | | |
| V. E. Cetrone | X | | |
| Margaret S. Warden | X | | |
| Robert J. Brown | X | | |
| Glen L. Drake | | | |
| Jean A. Turnage | X | | |
| Michael Greely | X | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

HC ISE

395
8
10

SENATE JUDICIARY COMMITTEE

BILL 560
640
HJR 35

VISITORS' REGISTER

DATE 3/15/75

| NAME | REPRESENTING | BILL # | (check one) SUPPORT | OPPOSE |
|---|---|---|---|---|
| Jan Brown | Mental Health Assn | HB 640 | ✓ | |
| Robert V. Campbell | MBA Correctional Facilities Committee | HB 395 | ✓ | |
| [illegible] | [illegible] | HB [illegible] | ✓ | |
| [illegible] | [illegible] | HB 640 | ✓ | |
| Nick A Eatering | Dept of Institutions | HB 560 HB 640 | ✓ | |
| [illegible] | [illegible] | HB 640 | ✓ | |
| [illegible] | [illegible] | HB 640 | ✓ | |
| DENNIS LESTER | Chief Sponsor | HJR 35 | ✓ | |
| Pat Melby | OSPP | HJR 35 | ✓ | |
| [illegible] | [illegible] | [illegible] | | |

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: Jan Tobe DATE: 3/15/85

ADDRESS: 611 Stacy

PHONE: 443-3125

REPRESENTING WHOM? Lewis Valley Dist

APPEARING ON WHICH PROPOSAL: HB 5

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

WITH THE COMMITTEE SECRETARY

MINUTES OF THE MEETING
SENATE JUDICIARY COMMITTEE
March 17, 1975

The meeting was called to order by Senator Towe, Chairman, at 4:57 P.M. in Room 442 of the Capitol Building.

The Committee met in Executive Session to consider:

| | |
|---|---|
| HB 560 | HB 47 |
| HB 640 | HB 586 |
| HB 8 | HB 555 |
| HJR 35 | HB 571 |
| HJR 45 | HB 82 |

EXECUTIVE SESSION

Senator Towe introduced the self-implementing real estate disclosure bill which the Committee had agree to introduce. Senator Greely moved to introduce the bill. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATORS DRAKE AND TURNAGE ABSENT.

HB 560 -- Senator Roberts moved to pass consideration of HB 560 until the 75th day. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATORS DRAKE AND TURNAGE ABSENT.

HB 640 -- Senator Roberts moved HB 640 be not concurred in. THE MOTION CARRIED WITH SENATORS BROWN AND TOWE VOTING NO.

HB 8 -- Senator Greely moved to amend page 7, section 14, lines 15-20. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR BROWN ABSENT.

Senator Turnage moved to amend page 3, line 15. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR BROWN ABSENT.

Senator Drake moved to insert "political ideas" following "creed" wherever it appears in the bill. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR BROWN ABSENT.

Senator Greely moved HB 8 be concurred in as amended. THE MOTION CARRIED ON A ROLL CALL VOTE WITH SENATOR BROWN ABSENT.

HJR 35 -- Senator Turnage moved HJR 35 be concurred in. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR BROWN ABSENT.

HJR 45 -- Senator Turnage moved to amend page 2, line 13, by inserting "Montana" before legislature and throughout the bill as it appears and to insert on page 2, following line 13 the material on the attached Committee Report. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE WITH SENATOR BROWN ABSENT.

SENATE COMMITTEE JUDICIARY

Date 3/17/75 House Bill No. 8 Time

| NAME | YES | NO |
|---|---|---|
| THOMAS E. TOWE | X | |
| JOE R. ROBERTS | X | |
| V.E. CETRONE | X | |
| MARGARET S. WARDEN | X | |
| ROBERT J. BROWN | | |
| GLEN L. DRAKE | X | |
| JEAN A. TURNAGE | X | |
| MICHAEL GREELY | X | |
| | | |
| | | |
| | | |
| | | |

Secretary

Chairman

Motion: Leg. Senate Journal to amend page 3, line 15.

(Include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/17/75 Hawaii Bill No. 8 Time

| NAME | YES | NO |
|---|---|---|
| THOMAS E. TOWE | X | |
| JOE R. ROBERTS | X | |
| V E. CETRONE | X | |
| MARGARET S. WARDEN | X | |
| ROBERT J. BROWN | | |
| GLEN L. DRAKE | X | |
| JEAN A. TURNAGE | X | |
| MICHAEL GREELY | X | |
| | | |
| | | |
| | | |
| | | |

Jill K. Rapoza
Secretary

Teena E. Lowe for
Chairman

Motion: by Senator Towe that HB 8 be
concurred in as amended.

(Include enough information on motion—put with yellow copy of committee report.)

ROLL CALL

Judiciary COMMITTEE

~~SECOND~~ HALF - 44th LEGISLATIVE SESSION 1975 Date 3/17/75 p.m.

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| Thomas E. Towe | X | | |
| Joe R. Roberts | X | | |
| V. E. Cetrone | X | | |
| Margaret S. Warden | X | | |
| Robert J. Brown | X left early | | |
| Glen L. Drake | X | | |
| Jean A. Turnage | X | | – |
| Michael Greely | X | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

SENATE COMMITTEE JUDICIARY

Date 3/17/79 House Bill No. 8 Time

| NAME | YES | NO |
|---|---|---|
| THOMAS E. TOWE | X | |
| JOE R. ROBERTS | X | |
| V. E. CETRONE | X | |
| MARGARET S. WARDEN | X | |
| ROBERT J. BROWN | | |
| GLEN L. DRAKE | X | |
| JEAN A. TURNAGE | X | |
| MICHAEL GREELY | X | |
| | | |
| | | |
| | | |
| | | |

Secretary

Chairman

Motion: Do pass State Aid to most political subdivisions, including local option taxes as provided in this bill

(Include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/11/125 House Bill No. 5 Time

| NAME | YES | NO |
|---|---|---|
| THOMAS E. TOWE | X | |
| JOE R. ROBERTS | X | |
| V.E. CETRONE | X | |
| MARGARET S. WARDEN | X | |
| ROBERT J. BROWN | | |
| GLEN L. DRAKE | X | |
| JEAN A. TURNAGE | X | |
| MICHAEL GREELY | X | |
| | | |
| | | |
| | | |
| | | |

Secretary

Chairman

Motion: by Senator Brown I move reg. [illegible] as attached amendments do pass

March 18, 1975

SENATE COMMITTEE ON JUDICIARY

AMENDMENTS TO HOUSE BILL NO. 8

That House Bill No. 8, third reading, be amended as follows:

1. Amend title, line 8.
Following: "CREED,"
Insert: "political ideas,"

2. Amend page 1, section 2, line 20.
Following: "creed,"
Insert: "political ideas,"

3. Amend page 2, section 2, line 1.
Following: "creed,"
Insert: "political ideas,"

4. Amend page 2, section 3, line 21.
Following: "creed,"
Insert: "political ideas,"

5. Amend page 3, section 4, line 13.
Following: "creed,"
Insert: "political ideas,"

. Amend page 3, section 4, line 15.
Following: "contract."
Insert: "As used in this act, "qualifications" means such qualifications as are genuinely related to competent performance of the particular occupational task."

. Amend page 3, section 5, line 23.
Following: "creed,"
Insert: "political ideas,"

. Amend page 4, section 6, line 13.
Following: "creed,"
Insert: "political ideas,"

. Amend page 5, section 8, line 4.
Following: "creed,"
Insert: "political ideas,"

0. Amend page 5, section 9, line 16.
Following: "creed,"
Insert: "political ideas,"

1. Amend page 7, section 14, lines 15 through 20.
Following: "RIGHTS"
Strike: lines 15 through 20 in their entirety
Insert: "."

HOUSE BILL NO. 8

INTRODUCED BY STOLTZ, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE 'MONTANA CODE OF FAIR PRACTICES' RELATING TO THE NONPARTICIPATION OF THE GOVERNMENT OF THE STATE OF MONTANA IN DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGIOUS CREED, POLITICAL IDEAS, SEX, AGE, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, NATIONAL ORIGIN, OR ANCESTRY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. DEFINITIONS. AS USED IN THIS ACT: "STATE AND LOCAL GOVERNMENTAL AGENCIES" MEANS ALL BRANCHES, DEPARTMENTS, OFFICES, BOARDS, BUREAUS, COMMISSIONS, AGENCIES, UNIVERSITY UNITS, COLLEGES, OR ANY OTHER INSTRUMENTALITY OF STATE GOVERNMENT; AND COUNTIES, CITIES, TOWNS, SCHOOL DISTRICTS OR ANY OTHER INSTRUMENTALITY OF LOCAL GOVERNMENT.

Section 2. Employment of state and local government personnel without regard for race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. (1) State and local government officials and supervisory personnel shall recruit, appoint, assign, train, evaluate, and promote personnel on the basis of merit and qualifications, without regard to race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry.

(2) All state and local governmental agencies shall:

(a) promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state government;

(b) regularly review their personnel practices to assure compliance; and

(c) conduct continuing orientation and training programs with emphasis on human relations and fair employment practices.

(3) The department of administration shall insure that the entire examination process, including qualifications appraisal, is free from bias.

(4) Appointing authorities shall exercise care to insure utilization of minority group persons.

Section 3. Nonparticipation in discriminatory practices. All services of every state and local governmental agency shall be performed without discrimination based upon race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. No state or local facility shall be used in the furtherance of any discriminatory practice, nor shall any state or local agency



HB 0008/03

become a party to any agreement, arrangement, or plan which has the effect of sanctioning discriminatory practices. Each state and local agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of this act and shall initiate comprehensive programs to remedy any defect found to exist.

Section 4. Public contracts. Every state or local contract or subcontract for construction of public buildings or for other public work or for goods and services shall contain a provision that ALL HIRING SHALL BE ON THE BASIS OF MERIT AND QUALIFICATIONS AND A PROVISION THAT there shall be no discrimination on the basis of race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry by the persons performing the contract. AS USED IN THIS ACT, "QUALIFICATIONS" MEANS SUCH QUALIFICATIONS AS ARE GENUINELY RELATED TO COMPETENT PERFORMANCE OF THE PARTICULAR OCCUPATIONAL TASK.

Section 5. Employment requests--cooperation with commission for human rights programs--enforcement of the policy of the act. (1) All state and local governmental agencies, including educational institutions, which provide employment referrals or placement services to public or private employers, shall accept job orders on a fair practice basis. Any job request indicating an intention to





exclude any person because of race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry shall be rejected.

(2) All state and local governmental agencies shall cooperate in programs developed by the commission for human rights initiated for the purpose of broadening the base of job recruitment and shall further cooperate with all employers and unions providing such programs.

(3) The department of labor shall cooperate with the commission for human rights in encouraging and enforcing employers and labor unions to comply with the policy of this act and promote equal employment opportunities.

Section 6. Licensing. No state or local department, board, or agency shall grant, deny, or revoke the license or charter of any person on the grounds of race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. Each state and local agency shall take such appropriate action in the exercise of its licensing or regulatory power as will assure equal treatment of all persons and eliminate discrimination and enforce compliance with the policy of this act.

Section 7. Public accommodations. No state or local department, board, or agency shall permit any violation of

the public accommodations provisions of section 64-306, R.C.M. 1947.

Section 8. State programs. All education, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state or local agencies, or in which state or local agencies participate, shall be open to all ~~qualified~~ persons, WHO SHALL BE ACCEPTED ON THE BASIS OF MERIT AND QUALIFICATIONS without regard to race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry. Such programs shall be conducted to encourage the fullest development of the interests, aptitudes, skills, and capacities of all students and trainees, with special attention to the problems of culturally deprived, educationally handicapped, or economically disadvantaged persons. Expansion of training opportunities under these programs shall be encouraged to involve larger numbers of participants from those segments of the labor force where the need for upgrading levels of skill is greatest.

Section 9. Distribution of funds, benefits, loans, and financial assistance. Race, color, religious creed, POLITICAL IDEAS, sex, age, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, national origin, or ancestry shall not be considered as limiting factors in state or locally administered programs involving the distribution of funds to





qualify applicants for benefits authorized by law; nor shall state agencies provide grants, loans, or other financial assistance to public agencies, private institutions, or organizations which engage in discriminatory practices.

Section 10. Cooperation with the commission for human rights. All state and local agencies shall cooperate with the commission for human rights in the commission's enforcement and educational programs. They shall comply with the commission's request for information concerning practices inconsistent with the state policy against discrimination and shall consider its recommendations for effectuating and implementing that policy. The commission for human rights shall continue to augment its enforcement and education programs which seek to eliminate all discrimination.

Section 11. Annual reports. All departments, agencies, commissions, and other bodies of the state government WHICH REPORT TO THE GOVERNOR shall include in their annual reports to the governor, activities undertaken in the past year to effectuate this act. Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as specifically requested by the governor.

Section 12. Local governmental units. Local governmental units affected by this act include all

political subdivisions of the state including school districts.

Section 13. ~~Age~~ PERMITTED distinctions. Nothing in this act shall prohibit any public or private employer (1) from enforcing a differentiation based on age ~~where--age--is~~ OR PHYSICAL OR MENTAL HANDICAP WHEN BASED ON a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; or (2) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual; or (3) from discharging or otherwise disciplining an individual for good cause.

Section 14. ~~Judicial--review~~ REMEDIES. (1) Any person claiming to be aggrieved by a violation of any provision of this act may FILE A COMPLAINT WITH THE COMMISSION FOR HUMAN RIGHTS ~~OR-MAY petition-the-district-court--in--the--district where-the-complainant-resides-or-where-the-alleged-violation occurred--for--appropriate--relief,--and-the-court-may-grant such-relief,-by-injunction-or--otherwise,--as--it--considers just-and-suitable.~~ ~~COMMENCEMENT-OF-THE-ADMINISTRATIVE-REMEDY SHALL-NOT-PRECLUDE-THE-JUDICIAL-REMEDY.~~





(2) Actions under this section are original actions.

~~(3)--Class-actions-pursuant-to--the--Montana--Rules--of Civil-Procedure-are-maintainable-under-this-act.~~

SECTION 15. QUOTAS NOT REQUIRED. NOTHING IN THIS ACT SHALL BE CONSTRUED AS REQUIRING THE INSTITUTION OF A SYSTEM OF QUOTAS FOR REPRESENTATION OF ANY SEX, AGE, RELIGIOUS, RACIAL, ETHNIC OR OTHER GROUP AFFECTED BY THIS ACT.

-End-